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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 638

ORANNA B. MOOSMAN, ADMINISTRATRIX of the Estate of ELIZABETH C. BUMGARNER POOWEGUP, deceased, *Petitioner;*

vs.

UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION, a body politic and corporate of the United States of America, and PARLEY PROBST, *Respondents.*

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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Appendix No. 1

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH CENTRAL DIVISION

UTE INDIAN TRIBE of the Uintah and Ouray Reservation, a body politic and corporate of the United States of America, *Plaintiff*,

vs.

PARLEY PROBST and ORANNA B. MOOSMAN, Administratrix of the Estate of Elizabeth C. Bumgarner Poowegup, deceased, *Defendants*.

Judgment No. C-172-67

The above entitled action came on regularly for trial before the court on the 5th and 6th days of September, 1968, before the Honorable A. Sherman Christensen, United States District Judge, the court sitting without a jury; John S. Boyden, Steven G. Boyden, and Ezra T. Clark appearing as attorneys for the plaintiff, and Wayne L. Black, appearing as attorney for the defendant Parley Probst, and David Sam and James J. Smedley appearing as attorneys for the defendant Oranna B. Moosman, Administratrix of the Estate of Elizabeth C. Bumgarner Poowegup, deceased; and evidence, both oral and documentary, having been intro-

duced by the respective parties hereto, and the court having heard the evidence and the arguments of counsel, and having fully considered the same, and having made its findings of fact and drawn its conclusions of law:

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. That the Administratrix's deed, dated September 21, 1964, described in the complaint purporting to convey the property hereinafter described from the defendant Oranna B. Moosman, Administratrix of the Estate of Elizabeth C. Bumgarner Poowegup, deceased, to the defendant Parley Probst recorded October 5, 1964, as Entry No. 86515, Book "49," pages 559-560 of the Records of the County Recorder, Wasatch County, State of Utah, and the order of the probate court authorizing said Administratrix's deed be, and the same is hereby, vacated, set aside, and annulled and declared of no force or effect.

2. That the defendant Oranna B. Moosman, Administratrix of the Estate of Elizabeth C. Bumgarner Poowegup, deceased, is the absolute owner of and holds the title to the real property described and referred to in the complaint and pleadings on file, and hereinafter in this judgment described, subject only to the interest of the defendant Parley Probst as hereinafter described, and that said plaintiff and the defendant Parley Probst have not any right, title, or legal or equitable interest in or to said property or any part thereof, except as to the interest of the defendant Parley Probst as hereinafter described; and that said plaintiff and defendant Parley Probst be and they are hereby denied the relief prayed for in their pleadings herein.

3. That the defendant Oranna B. Moosman, as Administratrix of the Estate of Elizabeth C. Bumgarner Poowegup, deceased, have and recover possession of all of the real property hereinafter described together with all improvements and appurtenances thereunto belonging.

4. That all persons claiming under plaintiff or the defendant Parley Probst be and they are hereby forever barred from any and all claim of right or title to said premises or any part thereof.

5. That the defendant Parley Probst has a lien on the hereinafter described property to secure the sum of $35,000.00, together with interest at the rate of 6% per annum on $33,516.00 from October 28, 1959, to November 11, 1960; that after notice of the entry of this judgment and within ten days after the above referred to sums have been tendered to the defendant Parley Probst that the defendant Parley Probst execute and deliver to the defendant Oranna B. Moosman, Administratrix of the Estate of Elizabeth C. Bumgarner Poowegup, deceased, under his hand and seal, and duly witnessed and acknowledged, a deed of conveyance and a release to the defendant Oranna B. Moosman, Administratrix of the Estate of Elizabeth C. Bumgarner Poowegup, deceased, of all claim in and to said premises; said release including a release of mortgage.

6. That the plaintiff and the defendant Oranna B. Moosman, Administratrix of the Estate of Elizabeth C. Bumgarner Poowegup, deceased, do have and recover of the defendant Parley Probst their taxable costs and disbursements—a bill of costs and disbursements to be filed as provided by Rule 15 of this court.